



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

NOV 2 3 2004

Craig Engle, Esq.  
Arent, Fox, Kinter, Plotkin & Kahn, PLLC  
1050 Connecticut Avenue, NW  
Washington, DC 20036-5539

RE: MURs 5299 and 5322

Dear Mr. Engle:

On September 17, 2002, the Federal Election Commission notified your clients in MUR 5299, Gordon Smith for U.S. Senate and Stan Huckaby, as treasurer, Gordon Smith for U.S. Senate 2002, Inc. and Lisa Lisker, as treasurer, and Senator Gordon H. Smith, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On January 22, 2003, the Commission notified your client, Gordon Smith for U.S. Senate, Inc. (96) and Stan Huckaby, as treasurer, of the complaint. On November 9, 2004, the Commission determined to take no action with respect to the complaint. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). A copy of the dispositive General Counsel's Report is enclosed for your information.

On October 25, 2002, the Federal Election Commission notified your clients in MUR 5322, Gordon Smith for U.S. Senate, Inc. (96) and Stan Huckaby, as treasurer, Senator Gordon H. Smith, and Sharon L. Smith, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on November 9, 2004, found that there is no reason to believe that Gordon H. Smith, and Gordon Smith for U.S. Senate, Inc. (96) and Stan Huckaby, as treasurer, violated 2 U.S.C. §§ 441a(f) with regard to the repayment of the \$2,000,000 line of credit extended by United States Bank of Oregon in 1995. The Commission also found that there is no reason to believe that Sharon L. Smith violated 2 U.S.C. § 441a(a)(1) or (3) by making an excessive contribution to Gordon Smith for U.S. Senate, Inc. (96). Furthermore, the Commission

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dismissed the complaint as it pertains to Gordon Smith for Senate 2002 and Lisa Lisker, as treasurer.

On November 9, 2004, the Commission also found that there is reason to believe that Gordon Smith for U.S. Senate, Inc. (96) and Stan Huckaby, as treasurer, violated 2 U.S.C. § 434(b)(4)(D) and 434(b)(8), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit the bank statements and any other factual or legal materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

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If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to these matters, at (202) 694-1650.

Sincerely,



Ellen L. Weintraub  
Vice Chair

Enclosures

First General Counsel's Report - MUR 5299  
Factual and Legal Analysis - MUR 5322

cc: candidate

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**MUR**                      **5322**

**RESPONDENT**              Gordon Smith for U.S. Senate, Inc. (96) and Stan Huckaby, as treasurer

**I.     INTRODUCTION**<sup>1</sup>

This matter was generated by a complaint filed by Neal Pender of the Bill Bradbury for U.S. Senate Committee against Gordon Smith for U.S. Senate, Inc. (96) and Stan Huckaby, as treasurer. *See* 2 U.S.C. § 437g(a)(1).

**II.    FACTUAL AND LEGAL ANALYSIS**

The complaint concerns Gordon Smith for U.S. Senate, Inc.'s (96) ("Committee" or "Smith 96") repayment of a 1995 line of credit from the U.S. Bank of Oregon ("U.S. Bank"). The complaint challenges the Committee's amendments to its 2000 and 2001 disclosure reports, made in 2002, that state that Senator Smith had repaid a \$1.6 million loan from U.S. Bank from "personal funds" in May 2000. Rather, the complaint alleges, the record shows that the repayment of the remaining debt on the 1995 line of credit came from a mortgage loan obtained by Gordon and Sharon Smith in 2000.

The Committee responded that during the course of Senator Smith's two elections in the 1996 election cycle, he loaned his two committees approximately \$2.3 million. The response states that "[f]inancial institutions lent the candidate the funds used for these loans secured with

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<sup>1</sup> All of the facts relevant to these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. No. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), codified at 2 U.S.C. §§ 431 *et seq.*, or statements of law regarding provisions of the Act contained herein refer to the Act as it existed prior to the effective date of BCRA. Further, unless specifically noted to the contrary, any reference to Title 11 of the Code of Federal Regulations refers to the regulation as it existed prior to the implementation of BCRA, and as it appears in the 2002 edition of the Code of Federal Regulations.

1 the candidate's share of his real and personal property." The response asserts that Senator Smith  
2 has over time personally repaid the bank loans in full. According to the response, one of the  
3 loans the candidate made to his campaign in 1996 was for approximately \$1.6 million,<sup>2</sup> and that  
4 as a result of the candidate's periodic payments, the outstanding balance on the debt to U.S. Bank  
5 on May 4, 2000 was \$589,321.23.

6 The response further maintains that on April 26, 2000, Senator Smith and his wife "took  
7 equity out of their [Maryland] home at a time of low interest rates and markedly appreciating  
8 value." According to the response, the home "is jointly owned and valued between 2.01 million  
9 dollars and 2.3 million dollars at the time of the refinancing."<sup>3</sup> As a result of this refinancing,  
10 Senator Smith and his wife received "a new homeowner's loan from Portland Mortgage for \$1.7  
11 million." The response asserts that of the proceeds of the Portland Mortgage homeowner's loan,  
12 "Senator Smith only used \$589,321.23 to retire the U.S. Bank loan," and the remainder was  
13 "used to pay off other debts, purchase personal property and to infuse capital in the family  
14 business: Smith Frozen Foods." In support of these assertions, the response attaches what  
15 appears to be the final page of a bank statement from the U.S. Bank demonstrating periodic  
16 principal and interest payments from September 1999 to May 2000, including an outstanding  
17 principal balance on May 1, 2000 of \$589,321.23, and a payment of that amount and a zero  
18 balance effective on May 4, 2000. As additional corroboration, the response points to Senator  
19 Smith's Senate financial disclosure forms covering the 1999 calendar year (on which it appears

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<sup>2</sup> According to the response, "[t]hough the account was opened in December 1995, the transaction in question occurred in 1996."

<sup>3</sup> While not submitting an appraisal contemporaneous with the refinancing, the response included an appraisal dated from January 1, 2002 to July 1, 2003 stating that the value of the Smiths' Maryland home was then between \$2.07 and \$2.3 million. The Smiths purchased the home from Monroe Development Corp. in 1997 at a price of \$2,010,000.

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1 that Senator Smith reported the debt as a personal one) that reflect a debt of between \$500,000  
 2 and \$1 million on the 1995 line of credit as of December 31, 1999.<sup>4</sup> In his disclosure forms for  
 3 2000, however, Senator Smith did not report the 1995 line of credit debt at all, implying that the  
 4 debt had been extinguished by the time he filed those forms.

5 The response admits that “[t]he Committee’s FEC Reports failed to reflect the periodic  
 6 payments the Senator made to reduce the debt.” However, the response maintains that the error  
 7 was discovered “when [RAD] questioned the Committee’s Treasurer about the lack of activity on  
 8 [the] loan,” and that “[t]o correct [the] reporting error—and to report the pay-off that had  
 9 occurred—RAD and the Committee’s Assistant Treasurer devised an amendment, filed on  
 10 May 29, 2002, attached as Exhibit C to the response, to reflect that all of the \$1.6 million loan  
 11 was repaid as of May 2, 2000.”<sup>5</sup> Respondents state that although the amendment was  
 12 accurate “[i]n the aggregate . . . the full 1.6 million dollar loan was not repaid *on* that date, the  
 13 full amount had been repaid *as of* that date through years of the Senator’s personal payments with

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<sup>4</sup> In his disclosure forms for 1996, 1997, and 1998, Senator Smith reported that he owed between \$1,000,001 and \$5,000,000 to “US National Bank” in “Portland, OR” for a “Promissory Note—Proceeds used for Gordon Smith for US Senate Campaign.” The Senate financial disclosure forms reflect assets and liabilities as of the end of a calendar year, with the amount listed within dollar ranges rather than a specific amount.

<sup>5</sup> In support of this assertion, Respondents provided the affidavit of Lisa Lisker, which states, in relevant part:

- In May 2002, “Senator Smith had already paid in full the U.S. Bank loan, however . . . it was not included on previous Committee FEC filings;”
- “In 2002, in coordination with RAD, and based on the information provided to me by the Committee, I filed an amendment to the Committee reports showing the full payment of the U.S. Bank loan in 2000;”
- “For administrative clarity, and on the instructions of RAD, the amendment listed a one-time payment only.”

Neither the analyst responsible for Gordon Smith’s various committees during the period of May 2002 nor the analyst who signed the May 14, 2002 RFAI to which Respondents are apparently referring could locate any record of a telephone conference (“telecon”) with the Committee reflecting agreement on an amendment. The analyst that signed the RFAI stated that he could not remember any similar call, that his personal notes did not reflect such a call, and that this was exactly the type of telephone call for which he would prepare a telecon.

With respect to the amount of the loan, the total net draw on the line of credit in Senator Smith’s 1995-1996 special election campaign and his 1996 general election campaign equaled a principal amount of \$1,978,257. Thus, the response’s repeated references to a “\$1.6 million loan” appear to be in error.

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1 only the final payment of \$589,321.23 occurring after the refinancing of the Smith's [sic] home."

2 Thus, although the amendment on its face seemingly reflects that the entire remaining balance  
3 had been repaid during the reporting period in which the amendment was filed (and all on May 2,  
4 2000), in actuality the pay-down, which Smith 96 failed to contemporaneously report, had  
5 occurred over a series of reporting periods. Finally, the response asserts that the Committee  
6 properly reported the funds used to pay off the remaining debt on the U.S. Bank loan as "personal  
7 funds" instead of funds secured by the refinanced mortgage because "less than a third" of the  
8 home equity loan was used to "personally pay off the U.S. Bank debt" and the remainder was  
9 used to pay non-campaign personal expenses, such as paying off other debts, purchasing personal  
10 property and infusing capital into the family-owned business, Smith Frozen Foods. Accordingly,  
11 the response contends the home equity loan was not received "'in connection with the campaign'  
12 and . . . did not need to be designated as such in Committee reports."<sup>6</sup>

13 The reporting of the 1995 line of credit is important in understanding the complaint.  
14 Smith for Senate -- Smith's committee for the January 1996 special general election and the  
15 December 1995 special primary election -- originally obtained the line of credit. Smith for  
16 Senate's disclosure reports reflect that it continued to make draws on this line of credit during  
17 Senator Smith's special primary and special general elections.<sup>7</sup> In its Special General/Year End

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<sup>6</sup> The response states that "[i]f the Commission feels that the origin of these funds are more properly designated as a loan from Portland Mortgage, the Committee is willing to accept the Commission's advice on this matter and make this administrative amendment." Attached to the Committee's response as a proposed amendment is a Schedule A with a \$1,634,427.82 receipt on May 2, 2000 that notes "Loan from Personal Funds by Portland Mortgage" and a Schedule C in the same amount incurred on May 2, 2000 that includes as the Loan Source "Gordon H. Smith - Personal Funds received from Portland Mortgage." However, by the Committee's assertions, the portion of the home equity loan used for campaign purposes (to pay off the U.S. Bank loan) was only \$589,321.23.

<sup>7</sup> Smith for Senate's Special Primary Report was filed on November 20, 1995 and was amended to properly reflect these transactions on December 19, 1995. The special primary election was held on December 5, 1995. The special general election was held on January 30, 1996.

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1 Report filed on January 18, 1996, Smith for Senate reported on its Schedules C and C-1 that as of  
 2 December 28, 1995, Smith for Senate had drawn, in separate increments, a total of \$1,600,000 on  
 3 the \$2,000,000 line of credit.<sup>8</sup> In its original Special Pre-General Report filed on January 16,  
 4 1996, Smith for Senate reported drawing an additional \$300,000 from the line of credit—  
 5 \$100,000 on January 4, 1996 and \$200,000 on January 9, 1996, for a total of \$1,900,000. On the  
 6 Schedules A for the respective reports, the draws were listed as received by the committee from  
 7 “Gordon H. Smith,” rather than from U.S. Bank. In contrast to the Schedules A, the Schedules C  
 8 list the draws as loans from U.S. Bank, with the various dates of the draws listed as the dates the  
 9 loans were incurred.

10 On July 18, 1996, Senator Smith’s 1996 Committee filed its 1996 July Quarterly Report.  
 11 This report included a copy of an “Assumption Agreement,” in which Smith 96 “expressly  
 12 assumes” Smith for Senate’s accrued debt “in the approximate principal sum of \$2 million and  
 13 accrued interest in the amount of \$87,913.55 as of May 21, 1996 . . . .” After assuming Smith for  
 14 Senate’s debt, Smith 96 reported, in its original 1996 October Quarterly report, that it drew  
 15 \$75,000 from the line of credit on August 26, 1996 and \$45,000 from the line of credit on  
 16 October 4, 1996. Both draws were also listed on their respective Schedules A. Because the  
 17 Committee had repaid \$41,743 that it had previously withdrawn, the late 1996 draws did not  
 18 exceed the \$2 million line of credit. The assumption agreement also states that Senator Smith  
 19 “agrees to no longer look to [Smith for Senate] for payment . . . and, instead, to look solely to

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<sup>8</sup> Based on the Schedules C and C-1, the \$1.6 million total in draws were made as follows: \$150,000 on 9/26/95; \$150,000 on 10/5/95; \$74,622 on 10/5/95; \$100,000 on 10/10/95; \$2,500 on 10/10/95; \$140,000 on 10/17/95; \$2,500 on 11/1/95; \$150,000 on 11/1/95; \$200,000 on 11/8/95; \$125,000 on 11/15/95; \$55,378 on 11/21/95; \$100,000 on 11/28/95; \$150,000 on 12/5/95; \$100,000 on 12/12/95; and \$100,000 on 12/28/95.



[Smith 96] for payment.” The aggregate draws on the line of credit in 1995 and 1996 totaled a principal amount of \$1,978,257 (\$1.6 million + \$300,000 + \$75,000 + \$45,000 - \$41,743).

As shown in Attachment 1, Smith 96 reported that it made a total of \$1,955,504.01 in disbursements to U.S. Bank between June 5, 1996 and May 2, 2000, of which \$1,875,621 were principal repayments. Of these principal repayments, \$241,193.17 was reported as being made between June 5, 1996 and January 7, 1999, the latter date representing the last reported principal disbursement (\$25,000) that Smith 96 would report for the next three-plus years.<sup>9</sup>

In addition to the \$41,743 in principal repayments referred to above, Smith 96 reported making an additional \$179,450.17 in principal repayments between late 1996 and January 7, 1999, which should have left a balance of \$1,738,806.93. However, Smith 96’s 1999 Year-End and original 2000 Mid-Year Reports showed an outstanding loan balance of \$1,634,427.82. Moreover, according to the partial bank statement from U.S. Bank that was provided with the response, additional principal payments totaling \$114,707 were made in October, November and December 1999 (and presumably, there were others between June 7, 1999 and October 1999), leaving an

<sup>9</sup> These payments were variously described in Smith 96’s disclosure reports. Specifically, between the 1996 July Quarterly Report and the 1999 Mid-Year Report, on four occasions, Smith 96 reported on Schedules B principal payments totaling \$42,716 to U.S. Bank with the notation “Loan Repayment/In-kind principal payment” by Gordon Smith, and there were corresponding in-kind receipts from Gordon Smith reported on Schedules A. See Attachments 1 and 2. On three occasions, Smith 96 reported on Schedules B principal payments totaling \$33,477 with the notation “Principal Payment Paid by Candidate” and corresponding receipts from Gordon Smith on the same dates totaling \$33,477 on Schedules A. See *id.* Finally, there were five other principal disbursements to U.S. Bank totaling \$165,000 described as “loan payment” or “loan repayment” without any obviously corresponding in-kind receipts from Gordon Smith. Most of the principal payments (\$218,888) were reflected as decreases in the loan balance to U.S. Bank on the respective Schedules C for the various reporting periods, and reflected, as appropriate, on the Schedules A or B. From 1996 to 2000, Smith 96 also reported disbursements to Gordon Smith totaling \$322,382 in principal payments and \$77,058 in interest payments. Of this amount, \$50,246 in interest payments made between October 1, 1999 and May 4, 2000 was apparently paid to U.S. Bank because those payments are listed on the partial U.S. Bank statement covering that period of time provided with Smith 96’s response to the complaint. Because the candidate assertedly made \$2.3 million in loans to his 1995 and 1996 campaign committees, it is unclear whether or if the reported principal payments and the remaining interest payments reported as made to Gordon Smith were intended to pay down the U.S. Bank line of credit or other debt. Additionally, in 1996, Smith 96 reported 14 “debt payments” to Gordon Smith for U.S. Senate, which is the 1995 Committee, totaling \$242,516. These payments do not appear to relate to the U.S. Bank loan.

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1 outstanding loan balance of \$935,452.63 as of December 31, 1999. Thereafter, seven additional  
 2 payments of interest were made during 2000, prior to a pay-off of the final principal balance of  
 3 \$589,321.23 in early May 2000.<sup>10</sup> None of the principal payments listed on the U.S. Bank  
 4 statement appeared in Smith 96's original disclosure reports, and the principal payments  
 5 scheduled on the amended reports are difficult, if not impossible, to reconcile as to date and  
 6 amount with the partial bank statement provided with the response.<sup>11</sup>

7 On May 14, 2002, the Reports and Analysis Division sent the Committee an RFAI  
 8 "stating that the campaign had not been reporting interest payments on the loans from both U.S.  
 9 Bank and Gordon Smith to" Smith 96. In response, on May 29, 2002, Smith 96 filed  
 10 amendments to its 2000 and 2001 Mid-Year and Year-End Reports. The amendment to the 2000  
 11 Mid-Year Report states that Senator Smith made a \$1,634,427.82 loan to Smith 96 from  
 12 "personal funds," and that Smith 96 made varying disbursements totaling \$1,634,427.82 to U.S.  
 13 Bank, all on May 2, 2000, retiring the debt. The amended 2000 and 2001 Mid-Year and Year-  
 14 End Reports, and all subsequent reports to the present day, show a loan of \$1,634,427.82 from  
 15 Gordon Smith to Smith 96 at 0% interest on May 2, 2000, all of which is still outstanding.

16 If Smith 96 had reported the transactions properly, its original periodic reports should  
 17 have consistently reflected contributions from the candidate on the Schedules A, periodic  
 18 payments to U.S. Bank in the same amount as the candidate's contributions on the Schedules B,

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<sup>10</sup> The partial bank statement reflects the following principal payments: 1999: \$17,879.05 on October 1; \$60,500.00 on October 22; \$17,762.93 on November 1; and \$18,565.06 on December 6; 2000: \$18,220.16 on January 3; \$18,383.14 on January 31; \$80,000 on February 25; \$163,786.65 on March 2; \$25,000 on March 7; \$20,292.81 on April 3; \$20,448.00 on May 1; and \$589,321.23 on May 4.

<sup>11</sup> Each of the interest payments listed on the U.S. Bank statement appeared in the original 1999 Year-End and 2000 Mid-Year disclosure reports with the exact same amount and date, but were shown as disbursements to Gordon Smith rather than disbursements to U.S. Bank. See n.9.

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1 and periodic decreases in the outstanding debt on the Schedules C.<sup>12</sup> Because the response did  
 2 not include the entire debt history, the Commission cannot determine all of the reports that are  
 3 affected by these errors. However, the partial U.S. Bank statement apparently shows that Smith  
 4 96 failed to report principal payments of at least \$114,927 (and likely far more) on the 1999  
 5 Year-End Report and principal payments of \$935,452 on the 2000 Mid-Year Report. Moreover,  
 6 the comprehensive amendment to the 2000 Mid-Year Report filed on May 29, 2002 confused the  
 7 issue by reporting all payments as made on one day rather than listing the actual dates that  
 8 principal payments were made. The amended reports also inaccurately reflect the dates and  
 9 amounts of loans incurred by Smith 96 from Gordon Smith by showing a loan of \$1,634,427.82  
 10 as having been incurred on May 2, 2000 instead of over a period of time.

11 Although Smith 96 conceded in its response to the complaint that \$1.6 million actually  
 12 had not been repaid *on* May 2, 2000, but had been repaid to U.S. Bank over time *as of* that date,  
 13 this information could not be found anywhere on the amendment. Therefore, Smith 96's  
 14 amended 2000 Mid-Year Report makes it appear as though Senator Smith placed \$1,634,427.82  
 15 into Smith 96 *on* May 2, 2000, which was used to pay off the 1995 U.S. Bank line of credit that  
 16 same day—soon after Senator and Mrs. Smith obtained a \$1.7 million home equity loan.

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<sup>12</sup> The Act provides that the treasurer of a political committee shall file reports of receipts and disbursements in accordance with 2 U.S.C. § 434. For authorized committees, each report shall disclose, *inter alia*, loans made by or guaranteed by the candidate and all other loans, 2 U.S.C. § 434(b)(2)(g), identify each person who makes a loan to the committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount or value of such loan, 2 U.S.C. § 434(b)(3)(E), shall disclose the disbursements relating to repayment of loans made or guaranteed by the candidate, 2 U.S.C. § 434(b)(4)(D), and shall disclose the amount and nature of outstanding debts. 2 U.S.C. § 434(b)(8). Any candidate who receives a loan for use in connection with his or her campaign, or makes a disbursement in connection with such campaign, shall be considered, for purposes of the Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as agent of the authorized committee or committees of such candidate. 2 U.S.C. § 432(e)(2). *See also* AO 1994-26 (if a candidate makes repayments from personal funds, his or her authorized committee must report the payments to the bank as in-kind contributions to the committee, by disclosing a contribution from the candidate on Schedule A, an expenditure to the lender on Schedule B, and a reduction of the amount owed on Schedule C).

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1 Smith 96's cover letter to the amended reports creates the same appearance by stating "Senator  
2 Smith paid all the outstanding loans, using only his personal funds, from U.S. Bank in May  
3 2000." (Emphasis added). Thus, it is understandable that the complainant construed the 2002  
4 amendments reporting the repayment of \$1.6 million as having come in full from the 2000  
5 refinancing of the Senator's home.<sup>13</sup>

6 Not only did Smith 96 improperly report the repayments of the loan, including in the  
7 2002 amendments, but it also did not properly report the portion of the 2000 home equity loan  
8 that Senator Smith used for his campaign. On the issue of whether a loan obtained by a  
9 candidate that splits the proceeds between campaign-related expenses and non-campaign related  
10 expenses is a reportable contribution, Smith 96 should have reported the source and amount used  
11 to pay off the Committee's remaining debt from the 1995 line of credit, but would not be  
12 required to report the portion of the proceeds used for non-campaign purposes. *Accord*  
13 11 C.F.R. § 104.8(g)(2003); Brokerage Loans and Lines of Credit, Explanation and Justification,  
14 67 Fed. Reg. 38, 353, 38, 354 (June 4, 2002) ("[I]f a loan or advance . . . is used for the purpose  
15 of influencing the candidate's election for Federal office and for other purposes . . . then the  
16 portion that is used for the purpose of influencing the candidate's election for Federal office must  
17 be reported . . ."); cf. Advisory Opinion 1994-26 (where candidate obtained line of credit years  
18 prior to candidacy, his committee only needed to report the line of credit starting with the  
19 reporting period when the line of credit was first drawn on for campaign purposes).

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<sup>13</sup> Because of the Committee's faulty reporting, Complainant had alleged that the portion of the mortgage loan attributable to Mrs. Smith apparently was an illegal contribution to Smith 96. However, the history of the repayments of the 1995 line of credit show that the repayment apparently did not entirely come from proceeds of the refinancing, and, therefore, Smith 96 did not receive an excessive contribution from Sharon Smith.

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1       Based on the foregoing reporting problems, the Committee's disclosure reports were  
2 incomplete and inaccurate. Therefore, there is reason to believe that Gordon Smith for U.S.  
3 Senate, Inc. (96) and Stan Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(4)(D) and  
4 434(b)(8).

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